



JOHN ENGLER
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STATE OF MICHIGAN
DEPARTMENT OF EDUCATION
LANSING



THOMAS D. WATKINS, JR.
SUPERINTENDENT OF
PUBLIC INSTRUCTION

August 28, 2002

MEMORANDUM

TO: State Board of Education

FROM: Thomas D. Watkins, Jr., Chairman

SUBJECT: Discussion on Revision to the Position Statement on Inclusive Education

This item was prepared as an action item on the consent agenda for the State Board of Education on August 8, 2002. Ms. Straus requested that it be removed from the consent agenda for discussion. The item was held over to the meeting of September 12, 2002.

In February of 1992, the State Board of Education adopted a Position Statement on Inclusive Education (Attachment A.1). The Statement clarifies the definition of "inclusive education" and provides guidance to school districts of placement of students with disabilities in the least restrictive educational environment (Attachment A. 2).

The Special Education Advisory Committee (SEAC) is mandated under the Individuals with Disabilities Education Act (IDEA) to advise the state education agency with respect to policies and procedures regarding special education. By state and federal laws, the SEAC is composed of representatives of parents of students with disabilities or persons with disabilities, advocacy organizations, and professional organizations representing teachers, service providers and administrators. The SEAC determined that with the reauthorization of the IDEA 97 and its implementing regulations of March 12, 1999, the Position Statement on Inclusive Education needed review and possible revision. The SEAC deliberated its recommendations on this matter over two school years. On June 5, 2002, the SEAC unanimously approved a recommendation to the State Board of Education for an updated draft of the Position Statement on Inclusive Education (Attachment B).

Under the regulations implementing the IDEA, the Department is required to seek public comment on any changes to the state's special education policies and procedures. The Office of Special Education and Early Intervention Services will receive public comment on the updated draft of the Position Statement on Inclusive Education through September 30, 2002. Public hearings are scheduled for September 2002.

Following a summary of the public comment, staff will return to the State Board of Education with a recommendation to revise the Position Statement on Inclusive Education.

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608 WEST ALLEGAN STREET • P.O. BOX 30008 • LANSING, MICHIGAN 48909
www.michigan.gov • (517) 373-3324

Inclusive Education Position Statement

Michigan Department of Education
State Board of Education
February 1992

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Michigan Department of Education Statement of Assurance of Compliance with Federal Law

The Michigan State Board of Education complies with all Federal laws and regulations prohibiting discrimination and with all requirements and regulations of the U.S. Department of Education. It is the policy of the Michigan State Board of Education that no person on the basis of race, color, religion, national origin or ancestry, age, sex, marital status or handicap shall be discriminated against, excluded from participation in, denied the benefits of, or otherwise be subject to discrimination in any program or activity for which it receives financial assistance from the U.S. Department of Education.

Position Statement on Inclusive Education

This paper sets forth the position of the State Board of Education regarding the placement of students with handicaps in general education classrooms within general education facilities. This encompasses the emerging concept in the delivery of programs and services to students with handicaps known as inclusive education. Inclusive education should be integral to present efforts in P.A. 25, school improvement, school restructuring, and core curriculum which are attempting to enhance education for all students.

This paper reaffirms the 1984 policy (Attachment A) which served as a statement of commitment to increasing options for students with handicaps in general education facilities. Further, this paper serves as a statement of commitment to increasing opportunities for students with handicaps in general education classrooms within these facilities and to the integral involvement of parents in this process. It is the belief of the State Board of Education that program options created in general education classrooms will not only maximize the potential of students with handicaps, but also will assist in the preparation of both students with handicaps and students who are not handicapped for integrated community living.

For purposes of this paper, inclusive education is defined as follows:

The provision of educational services for students with disabilities, in schools where non-handicapped peers attend, in age-appropriate general education classes under the direct supervision of general education teachers, with special education support and assistance as determined appropriate through the individualized educational planning committee (IEPC).

This definition is congruent with the Michigan Department of Education's belief that all children should have the opportunity to be educated together, regardless of handicapping condition, in the school he or she would attend if not handicapped ~~unless otherwise determined~~ appropriate through the IEPC process.

As noted in the 1984 policy on least restrictive environment (LRE) concerning separate facilities:

It is the policy of the State Board of Education, pursuant to state and federal rules and regulations, that handicapped students are to receive their education in a chronologically age-appropriate, regular education environment unless an assignment of this type is determined to be inappropriate even with the provision of supplemental aids and services.

The determination of appropriate special education programs and services and the extent to which the student will participate in regular education programs shall be determined by the individualized educational planning committee and be based on the student's individual needs.

The provision of these services requires the availability of a full continuum of program options. Inclusive education, as defined by this paper, represents one of the options available on this special education continuum. The following provision from the 1984 policy on LRE is pertinent to the development of the position taken in this paper:

All school districts that operate or contract for special education programs should review their delivery system to ascertain if their current continuum contains options to meet the educational and social development needs of all their students. If program options are lacking in regular education environments, these options must be made available to serve the individual needs of students as determined through an individualized educational planning committee process.

During the process of formulating recommendations regarding educational programs and services for students with handicaps the IEPC must consider the following, in order, based on the individual needs of the student and using the 13-step process identified in the 1984 policy on LRE.

1. Full-time placement in the general education classroom with special education support services.
2. Split-time placement in the general education classroom and a special education classroom program if it can be demonstrated that even with the provision of supplemental aids and services the handicapped student cannot be appropriately educated on a full-time basis in the regular classroom setting.
3. Full-time placement in special education program within a general education facility if it can be demonstrated that the student cannot be adequately educated in the split time setting.
4. Assignment to a separate facility as discussed in the 1984 policy on LRE.

Summary: It is the policy of the State Board of Education, pursuant to state and federal requirements, that students with handicaps must be educated with their nonhandicapped peers to the maximum extent appropriate to meet their individual educational needs and potential. So that this may be realized, it is essential that program options be available in general education classrooms within our general education facilities. Further, a process must be followed by the individualized educational planning committee which will assure that the recommended assignment option is appropriate to the individual needs of each student. Education assignments are not to be based on the label describing the student's handicap or the availability of programs.

The 1984 policy on least restrictive environment sets forth this statement of principle and provides a course of action for school districts to follow.

It is believed that adherence to the contents of this paper by Michigan's public schools will assure an educational environment that is appropriate for serving the individual needs of each of Michigan's students with handicaps, as well as foster the preparation of all youth for a lifetime of integrated community living.

THE EDUCATIONAL ASSIGNMENT OF
HANDICAPPED CHILDREN AND YOUTH
TO SEPARATE FACILITIES:

A POLICY REGARDING LEAST RESTRICTIVE ENVIRONMENT

Michigan Department of Education
State Board of Education
January 10, 1984

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STATEMENT OF ASSURANCE OF COMPLIANCE WITH FEDERAL LAW

The Michigan State Board of Education complies with all Federal laws and regulations prohibiting discrimination and with all requirements and regulations of the U.S. Department of Education. It is the policy of the Michigan State Board of Education that no person on the basis of race, color, religion, national origin or ancestry, age, sex, marital status or handicap shall be discriminated against, excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination in any program or activity for which it is responsible or for which it receives financial assistance from the U.S. Department of Education.

INTRODUCTION

This paper sets forth the policy of the State Board of Education regarding the educational assignments of special education students into separate facilities.

The content of this policy paper reflects significant efforts to collect and analyze program information, review state and federal regulations, survey Michigan's delivery system, review pertinent literature, and consider the opinions of parents, administrators, teachers, ancillary service providers, and others involved in the education of handicapped students. It gives direction to school districts for determining appropriate educational placements for their students and describes a process that should assure placement in an environment that is most conducive to a student receiving an education designed to develop his/her maximum potential.

This policy serves as a statement of commitment to increasing program options for handicapped students in regular education facilities. It is the belief of the State Board of Education that program options created in regular education facilities will not only maximize the potential of handicapped students for whom this environment is appropriate but also will assist both handicapped and nonhandicapped students for integrated community living.

The State Board of Education perceives the issue of appropriate educational placement of special education students as one of importance to all: the Department of Education, local and intermediate school districts, statewide organizations, parents, and students.

POLICY STATEMENT

This policy shall apply to any and all agencies responsible for the provision of special education programs and services pursuant to Article 3 of P.A. 451 of the Public Acts of 1976.

It is the policy of the State Board of Education, pursuant to state and federal rules and regulations, that handicapped students are to receive their education in a chronologically age-appropriate, regular education environment unless an assignment of this type is determined to be inappropriate even with the provision of supplemental aids and services.

The determination of appropriate special education programs and services and the extent to which the student will participate in regular education programs shall be determined by the individualized educational planning committee and be based on the student's individual needs. Assignment decisions shall not be based on the label describing the student's handicap or the availability of programs.

Whenever a student is considered for assignment to a separate facility, (this being a facility utilized solely for the education of handicapped students) the individualized educational planning committee should exercise its authority to formulate an assignment recommendation after discussion of options based upon student needs. The superintendent responsible for assignment of the student shall consider the individualized educational planning committee recommendation before making the assignment to a facility where the appropriate programs and services are to be delivered.

A separate facility may be an appropriate educational environment for some students. Assignment to this type of facility should be carried out only after the individualized educational planning committee has determined

the extent to which the student will participate in regular education programs and has discussed and documented assignment alternatives based on the student's needs in the cognitive, affective, and psychomotor domains in both curricular and extra-curricular areas. As part of this process, the individualized educational planning committee is expected to discuss the socialization benefits to be accrued by the handicapped student as well as by nonhandicapped students.

All school districts that operate or contract for special education programs should review their delivery system to ascertain if their current continuum contains options to meet the educational and social development needs of all their students. If program options are lacking in regular education environments, these options must be made available to serve the individual needs of students as determined through an individualized educational planning committee process.

RESPONSIBILITIES OF THE INDIVIDUALIZED EDUCATIONAL PLANNING COMMITTEE

The individualized educational planning committee is the forum for discussion of appropriate placement alternatives. This committee is minimally composed of a representative of the public agency who is responsible for the student's education, the student's teacher, the parent(s), and others at the discretion of the school district or parent. A representative of the multidisciplinary evaluation team must participate in the initial and three year reevaluation individualized educational planning committee meeting.

The individualized educational planning committee has or can obtain by rule (R 340.1722c) diagnostic information that can assist the committee in fully understanding the student's needs. This committee must, by law, make decisions of eligibility, of appropriate programs/services, and the extent to which the student is able to participate in regular education programs

(R 340.1721e). This committee may make recommendations concerning where these appropriate program/services shall be provided (R 340.1721d).

In assigning handicapped students to educational programs and services, it is expected that:

First, consideration be given to educating handicapped students with nonhandicapped students in the regular education classroom (R 340.1721e).

Second, if regular education classroom placement is not appropriate to the individual needs of the handicapped student; then consideration shall be given to assigning the student to a special education program in a regular school setting.

Third, and only if it can be demonstrated that even with supplemental aids and services the handicapped student cannot be educated in the regular school setting, is assignment to a separate facility deemed to be appropriate.

Fourth, if a separate facility is deemed to be appropriate, the handicapped student must be provided the opportunity to participate with nonhandicapped students in nonacademic and extracurricular activities to the maximum extent appropriate to the handicapped person's needs (R 340.1722).

The following 13 step process is recommended to assist the individualized educational planning committee and the public agencies in making decisions which adhere to the principles of least restrictive environment. It is not intended to identify all the responsibilities of the individualized educational planning committee. It is possible for the entire 13 step process to occur at the individualized educational planning committee meeting. However, the public agency and the parent have time lines for consideration of individualized educational planning committee decisions and recommendations and for notifying each other of the appropriateness of these decisions.

13 STEP PROCESS

1. The individualized educational planning committee determines the student's eligibility for special education.
2. The individualized educational planning committee discusses and identifies the specific cognitive, affective, and psychomotor needs of the student.

3. The individualized educational planning committee determines the extent to which the student is able to participate in regular education programs.
4. The individualized educational planning committee determines the specific special education and related services necessary to address the needs identified in step 2. These must be identified by rule number and title.
5. The individualized educational planning committee asks what opportunities and/or resources exist in the regular education facility that allows these needs to be met.
6. The individualized educational planning committee asks what opportunities and/or resources exist in the separate facility that allows these needs to be met. The committee should ask if these opportunities and/or resources can be established and provided to the student in a regular education facility. If they can, assignment to the regular education facility should be favored subject to a discussion of item 7.
7. The individualized educational planning committee discusses any potential harmful effects in the social, educational, or psychomotor areas or in the quality of services the student needs if assignment is made to a separate facility or a regular education facility.
8. The individualized educational planning committee decides if it will make a recommendation of where the programs and services may most appropriately be provided. If they do choose to make this recommendation, the individualized educational planning committee should document the results of its discussion of steps 5-7. In so doing the individualized educational planning committee should identify its recommended facility explaining why the facility is being recommended. It should also identify other facilities that were considered and why they were rejected.
9. If the individualized educational planning committee decides not to make a specific assignment recommendation to the superintendent, it will include documentation of items 5-7 in order for the superintendent to make appropriate assignment decisions. Facilities considered and reasons for consideration and rejection of specific facilities should also be provided to the superintendent in order for the notice requirements [R 340.1723(1)(b)] to be met.
10. The individualized educational planning committee's report and accompanying material is forwarded to the superintendent or designee.
11. The superintendent reviews the report and considers the facility options discussed and the rationale for rejecting any options. He/she considers the recommended facility if a recommendation is offered and makes an assignment decision.
12. The parent is then notified pursuant to R 340.1723a and R 340.1723b. The superintendent is required to inform the parent of the public agency's intent to implement the individualized education program, to identify where these programs and services will be provided, and when they will begin. (R 340.1722a).

13. The parent receives the notice and either requests a hearing relating to eligibility, the individualized education program, or the assignment decision of the superintendent or chooses to accept the school district's implementation plan as being appropriate.

The superintendent's assignment of a student to a separate or a regular education facility shall not be viewed as a permanent assignment decision.

The individualized educational planning committee at each annual review meeting should review the educational assignment and follow the 13 step process in order to assure that assignment decisions are appropriate.

STATE BOARD OF EDUCATION ADVICE TO SCHOOL DISTRICTS AND DIRECTIVES TO SPECIAL EDUCATION SERVICES

The State Board of Education advises that:

1. All school districts should review and involve the community to determine if the educational practices currently in operation prepare both their handicapped and nonhandicapped students for integrated community living.
2. All school districts should:
 - A. Assess their current delivery system to ascertain if their current continuum contains options to meet the educational and social development needs of all their students; and
 - B. Provide opportunities for interaction between handicapped students and nonhandicapped students.
3. If the assessment of the current delivery system (2A above) indicates that program options are lacking in regular education environments, then these options must be made available to serve the unique needs of students as determined through the individualized educational planning committee process.

The State Board of Education directs Special Education Services to:

1. Offer guidance and support to school districts as they provide program options for students.

2. Assist in the development of intermediate school district plans and to review these plans to assure consistency with this policy.
3. Provide leadership and support for inservice to special education and regular education teachers in developing skills needed in order to facilitate this policy.
4. Identify exemplary programs and create avenues for interaction between our school district leaders and persons associated with these exemplary programs.
5. Conduct a survey of the districts during the 1985-86 school year to determine if there have been changes in the number of programs available in regular education settings. The survey should include the number of students for whom placement reviews were conducted, the number of students whose placements were changed, the number of new placements, and the number of students in separate facilities who had no change in placement as a result of the review.

CONCLUSION

It is the policy of the State Board of Education, pursuant to state and federal requirements, that handicapped students must be educated with their nonhandicapped peers to the maximum extent appropriate to meet their individual educational needs and potential. So that this may be realized, it is essential that program options be available in regular education facilities within our school districts. Further, a process must be followed by the individualized educational planning committee which will assure that the recommended assignment option is appropriate to the individual needs of each student.

The policy statement presented by the Board sets forth this statement of principle and provides a course of action for school districts to follow. Michigan has long been a national leader in serving handicapped students.

In this light, the State Board of Education asks for a statewide effort to reassess our delivery system relative to educational placement of our children and youth and to work toward increased, meaningful interaction between all students in public education.

It is believed that an adherence to this policy by Michigan's public schools will assure an educational environment that is appropriate for serving the individual needs of each of Michigan's handicapped students.

Tab: Recommendations

☐ Information Item
☒ Action Item

RECOMMENDATION TO SEAC

Recommendation to: Update the State Board of Education Position Statement on Inclusive Education, February 1992

From: Policy Committee

Date: June 5, 2002

Rationale:

The Policy Committee of the SEAC determined that, with the passage of the Individuals with Disabilities Education Act in 1997 (IDEA 97) and its implementing regulations of March 12, 1999 (regulations), the State Board of Education Position Statement on Inclusive Education, February 1992, needed review and possible revision. IDEA 97 and the regulations presume that a student is to be educated with nondisabled peers, unless the Individualized Education Planning Team (IEPT) determines that this cannot be satisfactorily achieved. Previous federal law and regulations required a justification as to why a student needed special education or related services and a statement of the extent to which the student was able to participate in general education programs.

These are two different approaches to the issue of integration with nondisabled peers. The former approach was to justify placement in special education. The current approach is to justify removal from general education. The IEPT must now explain the extent to which the student will:

- (1) Not participate with students who are nondisabled in the general education program,
- (2) Not be involved and progress in the general curriculum, and
- (3) Not participate in extracurricular and nonacademic activities.

In light of this change in federal focus regarding the "least restrictive environment," the Policy Committee offers a recommendation to update the State Board of Education Position Statement on Inclusive Education, February 1992. This proposal includes a new 10-step LRE Placement Consideration document. The former 13-step process, which was used to justify placement in separate facilities, has been updated to this 10-step LRE Placement Consideration document. This document is to be used by IEPT's to guide program and placement decision making.

The recommendations proposed at the end of the 1992 document were completed and reported in the Final Report of the Inclusive Education Committee, January 1993 (attached). The current State Board of Education Position Statement on Inclusive Education, February 1992, is also attached.

Pros:

- Language has been updated regarding students with handicaps to "students with disabilities."
- References to the IEPC have been updated to the IEPT.
- Language has been updated to person first language.
- References to "classrooms" have been updated to "services."
- The 13-step process has been updated to a 10-step process. This new document is intended to guide decision making from the point of view that not being included in the general education curriculum needs to be justified.
- The position statement is much shorter and easier to understand.

Cons: • Some may feel this revised 10-step LRE documents gives "too much power" to the IEPT, and does not give districts and ISDs enough flexibility in determining how they will distribute services.

Motion to be made: It is recommended that the State Board of Education approve the proposed revisions to the State Board of Education Position Statement on Inclusive Education, February, 1992.

Action(s) to be taken if motion is approved: The OSE/EIS will prepare an item for the State Board of Education to approve an updated position on inclusive education.

Proposed Position Statement on Inclusive Education Position (Draft, March 7, 2001)

This paper sets forth the position of the Michigan State Board of Education regarding the placement of students with ~~handicaps~~ DISABILITIES in general education classrooms PROGRAMS within general education facilities. This encompasses the ~~emerging~~ concept in the delivery of programs and services to students with ~~handicaps~~ DISABILITIES known as inclusive education. Inclusive education should be integral to ~~present~~ efforts in P.A. 25, school improvement, school restructuring, and core curriculum ~~which are attempting~~ to enhance education for all students.

~~This paper reaffirms the 1984 policy (Attachment A) which served as a statement of commitment to increasing options for students with handicaps in general education facilities. Further, This paper serves as a statement of commitment to increasing opportunities for students with handicaps DISABILITIES in general education classrooms within these facilities and to the integral involvement of parents in this process. It is the belief of the State Board of Education that program options created in general education classrooms will not only maximize the potential of students with handicaps, DISABILITIES but also will assist in the preparation of both students with handicaps and PREPARE students who are not handicapped DISABLED for integrated community living.~~

For purposes of this paper, inclusive education is defined as follows:

The provision of educational services for students with disabilities, in schools where ~~nonhandicapped~~ peers WITHOUT DISABILITIES attend, in age-appropriate general education classes PROGRAMS under the direct supervision of general education teachers, with special education support and assistance as determined appropriate through the individualized education planning ~~committee~~ TEAM (IEPC) (IEPT).

This definition is congruent with the Michigan Department of Education's belief that all children should have the opportunity to be educated together, regardless of ~~handicapping condition~~ DISABILITY, in the school he or she would attend if not ~~handicapped~~ DISABLED unless otherwise determined appropriate through the IEPT process.

THE FEDERAL REGULATIONS AT 34 CFR §300.347 AND §§300.550 to 300.556 DELINEATE THE RIGHTS OF STUDENTS WITH DISABILITIES TO A PLACEMENT IN THE LEAST RESTRICTIVE ENVIRONMENT. (ATTACHED).

~~As noted in the 1984 policy on least restrictive environment (LRE) concerning separate facilities;~~

~~It is the policy of the State Board of Education, pursuant to state and federal rules and regulations, that handicapped students are to receive their education in a chronologically age appropriate, regular education environment unless an assignment of this type is determined to be inappropriate even with the provision of supplemental aids and services.~~

~~The determination of appropriate special education programs and services and the extent to which the student will participate in regular education programs shall be determined by the individualized educational planning committee and be based on the student's individual needs.~~

~~The provision of these services requires the availability of a full continuum of program options. Inclusive education, as defined by this paper, represents one of the options available on this special education continuum. The following provision from the 1984 policy on LRE is pertinent to the development of the position taken in this paper:~~

All school districts that operate or contract for special education programs should review their delivery system to ascertain if their current continuum contains options to meet the educational and social development needs of all their students. If program options are lacking in regular education environments, these options must be made available to serve the individual needs of students as determined through an individualized educational planning committee process.

During the process of formulating recommendations regarding educational programs and services for students with handicaps the IEPC must consider the following, in order, based on the individual needs of the student and using the 13 step process identified in the 1984 policy on LRE.

1. Full time placement in the general education classroom with special education support services.
2. Split time placement in the general education classroom program if it can be demonstrated that even with the provision of supplemental aids and services the handicapped student cannot be appropriately educated on a full-time basis in the regular classroom setting.
3. Full time placement in special education program within a general education facility if it can be demonstrated that the student cannot be adequately educated in the split time setting.
4. Assignment to a separate facility as discussed in the 1984 policy on LRE.

Summary: It is the policy of the State Board of Education, pursuant to state and federal requirements, that students with handicaps DISABILITIES must be educated with their handicapped NONDISABLED peers to the maximum extent appropriate to meet their individual educational needs and potential. So that this may be realized, it is essential that program options be available in general education classrooms PROGRAMS within our general education facilities. Further, a process must be followed by the individualized educational planning committee TEAM which will assure that the recommended assignment option is appropriate to the individual needs of each student. INCLUDE AN EXPLANATION OF THE EXTENT TO WHICH THE STUDENT WILL NOT PARTICIPATE WITH NONDISABLED STUDENTS IN THE GENERAL EDUCATION PROGRAM, IN EXTRACURRICULAR AND OTHER NONACADEMIC ACTIVITIES. Education assignments are not to be based on the label describing the student's handicap DISABILITY or the availability of programs.

The 1984 policy on least restrictive environment sets forth this statement of principle and provides a course of action for districts to follow.

It is believed that adherence to the contents of this paper by Michigan's public schools will assure an educational environment that is appropriate for serving the individual needs of each of Michigan's students with handicaps DISABILITIES, as well as foster the preparation of all youth for a lifetime of integrated community living.

LEAST RESTRICTIVE ENVIRONMENT (LRE) PLACEMENT CONSIDERATIONS

THE STATE BOARD OF EDUCATION IS IN AGREEMENT WITH THE FOLLOWING STATEMENT TAKEN FROM S. REP. NO.105-107, P.20; REP. NO. 105-95, P.99 (1997):

THE COMMITTEE WISHES TO EMPHASIZE THAT ONCE A CHILD HAS BEEN IDENTIFIED AS BEING ELIGIBLE FOR SPECIAL EDUCATION, THE CONNECTION BETWEEN SPECIAL EDUCATION AND RELATED SERVICES AND THE CHILD'S OPPORTUNITY TO EXPERIENCE AND BENEFIT FROM THE GENERAL EDUCATION CURRICULUM SHOULD BE STRENGTHENED. THE MAJORITY OF CHILDREN IDENTIFIED AS ELIGIBLE FOR SPECIAL EDUCATION AND RELATED SERVICES ARE CAPABLE OF PARTICIPATING IN THE GENERAL EDUCATION CURRICULUM TO VARYING DEGREES WITH SOME ADAPTATIONS AND MODIFICATIONS. THIS PROVISION IS INTENDED TO ENSURE THAT CHILDREN'S SPECIAL EDUCATION AND RELATED SERVICES ARE IN ADDITION TO AND ARE AFFECTED BY THE GENERAL EDUCATION CURRICULUM, NOT SEPARATE FROM IT.

THE STATE BOARD OF EDUCATION SUPPORTS THE USE OF THE FOLLOWING 10 STEP PROCESS IN DETERMINING THE EDUCATIONAL PLACEMENT OF ALL STUDENTS WITH DISABILITIES.

1. THE STUDENT'S ELIGIBILITY FOR SPECIAL EDUCATION IS DETERMINED BY THE INDIVIDUAL EDUCATIONAL PROGRAM TEAM (IEPT).
2. THE STUDENT'S SPECIFIC EDUCATIONAL NEEDS (COGNITIVE, AFFECTIVE, AND PSYCHOMOTOR) ARE IDENTIFIED AND DISCUSSED BY THE IEPT.
3. THE IEPT SHOULD GIVE FIRST CONSIDERATION TO THE APPROPRIATENESS OF PLACEMENT IN THE GENERAL EDUCATION ENVIRONMENT WITH MODIFICATIONS AND SUPPORTS. THE FULL CONTINUUM OF SERVICES WILL BE CONSIDERED WITHOUT REGARD TO CURRENT AVAILABILITY.
4. THE EXTENT TO WHICH THE STUDENT WILL NOT PARTICIPATE IN GENERAL EDUCATION PROGRAMS IS DETERMINED BY THE IEPT.
5. THE SPECIFIC SPECIAL EDUCATION AND RELATED SERVICES NECESSARY TO ADDRESS THE STUDENT'S NEEDS IDENTIFIED IN STEP 2 ARE DETERMINED BY THE IEPT. THESE PROGRAMS AND SERVICES MUST BE IDENTIFIED BY RULE NUMBER AND PROVIDER TITLE.
6. IN SELECTING THE LRE, CONSIDERATION IS GIVEN TO ANY POTENTIAL HARMFUL EFFECTS ON THE STUDENT OR ON THE QUALITY OF SERVICES THAT HE/SHE NEEDS (300.552D).
7. A DETERMINATION OF WHERE THE PROGRAMS AND SERVICES MAY MOST APPROPRIATELY BE PROVIDED, INCLUDING CONSIDERATION OF PLACEMENT AS CLOSE AS POSSIBLE TO THE CHILD'S HOME, MAY BE MADE BY THE IEPT.

8. IF THE IEPT DOES NOT MAKE A SPECIFIC FACILITY DETERMINATION, DOCUMENTATION OF THE PLACEMENT CONSIDERATIONS WILL BE FORWARDED TO THE SUPERINTENDENT. THE SUPERINTENDENT WILL MAKE A DETERMINATION OF WHERE AND WHEN THE PROGRAMS AND SERVICES BEGIN.
9. IN EITHER CASE, THE SUPERINTENDENT IS THEN REQUIRED TO INFORM THE PARENT OF THE PUBLIC AGENCY'S INTENT TO IMPLEMENT THE INDIVIDUALIZED EDUCATION PROGRAM, TO IDENTIFY WHERE THOSE PROGRAMS AND SERVICES WILL BE PROVIDED, AND WHEN THEY WILL BEGIN. (R340.1772A, R 340.1723A, AND R 340.1723B.)
10. UPON RECEIVING WRITTEN NOTICE, THE PARENT THEN HAS A REASONABLE TIME TO 1) ACCEPT THE SUPERINTENDENT'S DECISION AS APPROPRIATE, 2) REQUEST MEDIATION AND/OR A HEARING RELATED TO ELIGIBILITY, THE INDIVIDUALIZED EDUCATION PROGRAM, OR THE PLACEMENT DECISION, OR 3) REQUEST ANOTHER IEP.

(TO SEAC 6/5/02)

Least Restrictive Environment (LRE)

§300.550 General LRE requirements.

(a) Except as provided in §300.311(b) and (c), a State shall demonstrate to the satisfaction of the Secretary that the State has in effect policies and procedures to ensure that it meets the requirements of §§300.550-300.556.

(b) Each public agency shall ensure—

(1) That to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled; and

(2) That special classes, separate schooling or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

(Authority: 20 U.S.C. 1412(a)(5))

§300.551 Continuum of alternative placements.

(a) Each public agency shall ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services.

(b) The continuum required in paragraph (a) of this section must—

(1) Include the alternative placements listed in the definition of special education under §300.26 (instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions); and

(2) Make provision for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with regular class placement.

(Authority: 20 U.S.C. 1412(a)(5))

§300.552 Placements.

In determining the educational placement of a child with a disability, including a preschool child with a disability, each public agency shall ensure that—

(a) The placement decision—

(1) Is made by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; and

(2) Is made in conformity with the LRE provisions of this subpart, including §§300.550-300.554;

(b) The child's placement—

(1) Is determined at least annually;

(2) Is based on the child's IEP; and

(3) Is as close as possible to the child's home;

(c) Unless the IEP of a child with a disability requires some other arrangement, the child is educated in the school that he or she would attend if nondisabled;

(d) In selecting the LRE, consideration is given to any potential harmful effect on the child or on the quality of services that he or she needs; and

(e) A child with a disability is not removed from education in age-appropriate regular classrooms solely because of needed modifications in the general curriculum.

(Authority: 20 U.S.C. 1412(a)(5))

§300.553 Nonacademic settings.

In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and the services and activities set forth in §300.306, each public agency shall ensure that each child with a disability participates with nondisabled children in those services and activities to the maximum extent appropriate to the needs of that child.

(Authority: 20 U.S.C. 1412(a)(5))

§300.554 Children in public or private institutions.

Except as provided in §300.600(d), an SEA must ensure that §300.550 is effectively implemented, including, if necessary, making arrangements with public and private institutions (such as a memorandum of agreement or special implementation procedures).

(Authority: 20 U.S.C. 1412(a)(5))

§300.555 Technical assistance and training activities.

Each SEA shall carry out activities to ensure that teachers and administrators in all public agencies-

- (a) Are fully informed about their responsibilities for implementing §300.550; and
- (b) Are provided with technical assistance and training necessary to assist them in this effort.

(Authority: 20 U.S.C. 1412(a)(5))

§300.556 Monitoring activities.

(a) The SEA shall carry out activities to ensure that §300.550 is implemented by each public agency.

(b) If there is evidence that a public agency makes placements that are inconsistent with §300.550, the SEA shall—

- (1) Review the public agency's justification for its actions; and
- (2) Assist in planning and implementing any necessary corrective action.

(Authority: 20 U.S.C. 1412(a)(5))